Senate

General Assembly

File No. 187

February Session, 2014

Substitute Senate Bill No. 200

Senate, March 31, 2014

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT EXPANDING HEALTH INSURANCE COVERAGE OF SPECIALIZED FORMULA FOR INDIVIDUALS WITH EOSINOPHILIC GASTROINTESTINAL DISORDERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-492c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):

(a) For purposes of this section:

(1) "Inherited metabolic disease" includes (A) a disease for which newborn screening is required under section 19a-55; and (B) cystic fibrosis.

(2) "Low protein modified food product" means a product formulated to have less than one gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease under the direction of a physician.

(3) "Amino acid modified preparation" means a product intended

for the dietary treatment of an inherited metabolic disease under the direction of a physician.

(4) "Specialized formula" means a nutritional formula for (A) children up to age twelve, and (B) individuals up to age twenty-six who have an eosinophilic gastrointestinal disorder, that is exempt from the general requirements for nutritional labeling under the statutory and regulatory guidelines of the federal Food and Drug Administration and is intended for use solely under medical supervision in the dietary management of specific diseases.

(b) Each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for amino acid modified preparations and low protein modified food products for the treatment of inherited metabolic diseases if the amino acid modified preparations or low protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician.

(c) Each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for specialized formulas when such specialized formulas are medically necessary for the treatment of a disease or condition and are administered under the direction of a physician.

(d) Such policy shall provide coverage for such preparations, food products and formulas on the same basis as outpatient prescription drugs.

Sec. 2. Section 38a-518c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):

(a) For purposes of this section:

(1) "Inherited metabolic disease" includes (A) a disease for which newborn screening is required under section 19a-55; and (B) cystic fibrosis.

(2) "Low protein modified food product" means a product formulated to have less than one gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease under the direction of a physician.

(3) "Amino acid modified preparation" means a product intended for the dietary treatment of an inherited metabolic disease under the direction of a physician.

(4) "Specialized formula" means a nutritional formula for (A) children up to age twelve, and (B) individuals up to age twenty-six who have an eosinophilic gastrointestinal disorder, that is exempt from the general requirements for nutritional labeling under the statutory and regulatory guidelines of the federal Food and Drug Administration and is intended for use solely under medical supervision in the dietary management of specific diseases.

(b) Each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for amino acid modified preparations and low protein modified food products for the treatment of inherited metabolic diseases if the amino acid modified preparations or low protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician.

(c) Each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for specialized formulas when such specialized formulas are medically necessary for the treatment of a disease or condition and are administered under the direction of a

physician.

(d) Such policy shall provide coverage for such preparations, food products and formulas on the same basis as outpatient prescription drugs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2015*	38a-492c
Sec. 2	*January 1, 2015*	38a-518c

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 $	FY 16 $
State Comptroller - Fringe Benefits (State Employee and Retiree Health Accounts)	GF, TF - Cost	Approximately $302,400	Approximately $604,800
The State	Indeterminate - Cost	At Least $77,289	At Least $154,578

Municipal Impact:

Municipalities	Effect	FY 15 $	FY 16 $
Various Municipalities	STATE MANDATE - Cost	At Least $181,658	At Least $363,316

Explanation

The bill will result in a cost to the state employee and retiree health plan[1], municipalities, and the state, for providing coverage for specialized formula up to age 26 for individuals with eosinophilic gastrointestinal disorder (EGIDs). Current law provides coverage for specialized formula up to age 12. The total estimated cost to the state in FY 15 is at least $379,689 and $759,378 in FY 16. This cost is attributable to 1) the estimated cost to the state plan in FY 15 and FY 16 of approximately $302,400 and $604,800 respectively and 2) the cost to the state pursuant to the federal Affordable Care Act (ACA) (see below) in FY 15 and FY 16 of at least $77,289 and $154,578 respectively. The cost to fully insured municipalities in FY 15 and FY 16 is at least $181,658

[1] The state employee and retiree health plan is a self-insured health plan. Pursuant to federal law, self-insured health plans are exempt from state health mandates. However, the state has traditionally adopted all state health mandates.

and $363,316 respectively.[2]

The actual cost to the state and municipalities will depend on the projected incidence, utilization and cost of specialized formula for the covered populations. The estimated cost is based on the impact of specialized formula for members up to age 12, which may be different than the impact of providing coverage for 12 to 26 year olds. Secondly, the cost to the state pursuant to the ACA may be underrepresented as it is uncertain at this time if the enrollment information reported reflects the total number of covered lives by exchange plans or the number of individuals who purchased a policy.

For reference, the total amount reimbursed for specialized formula in the state plan, for members up to age 12 in calendar year 2012 was $385,869. The degree of utilization in covered members varies widely. A snap shot of members for calendar year 2012 reflects a range in annual benefits between $772 to $5,020.

Municipal Impact

As previously stated, the bill may increase costs to certain fully insured, municipal plans that do not currently provide coverage for specialized formula up to age 26 for EGIDs. The coverage requirements may result in increased premium costs when municipalities enter into new health insurance contracts after January 1, 2015. In addition, many municipal health plans are recognized as "grandfathered" health plans under the ACA.[3] It is unclear what effect

[2] The estimated cost is based on the per member per month (PMPM) increase for specialized formula under current law or $0.24PMPM. (Source: *Review and Evaluation of Certain Health Benefit Mandates in Connecticut*, Vol. II. (University of Connecticut Center for Public Health and Health Policy, 2010)). The PMPM cost is based on a fully insured model which includes treatment costs and utilization trends. This may be different than the actual cost to the state plan which is self-insured and therefore pays the actual cost of claims incurred as opposed to a set premium to insurers. The cost estimate for the state employee plan is based on plan membership as of February 2014; municipal impact is based on Dept. of Labor employment information as of December 31, 2013; state impact based on Exchange enrollment is as of January 2014.

[3] Grandfathered plans include most group insurance plans and some individual health plans created or purchased on or before March 23, 2010.

the adoption of certain health mandates will have on the grandfathered status of certain municipal plans under ACA. Pursuant to federal law, self-insured health plans are exempt from state health mandates.

The State and the federal ACA

Lastly, the ACA requires that, the state's health exchange's qualified health plans (QHPs)[4], include a federally defined essential health benefits package (EHB). The federal government is allowing states to choose a benchmark plan[5] to serve as the EHB until 2016 when the federal government is anticipated to revisit the EHB.

While states are allowed to mandate benefits in excess of the EHB, the federal law requires the state to defray the cost of any such additional mandated benefits for all plans sold in the exchange, by reimbursing the carrier or the insured for the excess coverage. State mandated benefits enacted after December 31, 2011 cannot be considered part of the EHB for 2014-2015 unless they are already part of the benchmark plan.[6] However, neither the agency nor the mechanism for the state to pay these costs has been established.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to 1) inflation, 2) the number of covered lives in the state, municipal and exchange health plans, and 3) the utilization of services.

Sources: *Department of Labor*
Office of the State Comptroller State Health Plan, Health Benefit Document as of July 2013

[4] The state's health exchange, Access Health CT, opened its marketplace for Connecticut residents to purchase QHPs from carriers, with coverage starting January 1, 2014.
[5] The state's benchmark plan is the Connecticare HMO plan with supplemental coverage for pediatric dental and vision care as required by the ACA.
[6] *Source*: Dept. of Health and Human Services. *Frequently Asked Questions on Essential Health Benefits Bulletin* (February 21, 2012).

OLR Bill Analysis

sSB 200

AN ACT EXPANDING HEALTH INSURANCE COVERAGE OF SPECIALIZED FORMULA FOR INDIVIDUALS WITH EOSINOPHILIC GASTROINTESTINAL DISORDERS.

SUMMARY:

This bill requires certain health insurance policies to cover medically necessary specialized formulas administered under a physician's direction for people with eosinophilic gastrointestinal disorders (EGIDs) up to age 26 instead of age 12. The law requires the policies to cover formulas for people with other diseases up to age 12. Insurers must provide coverage for formulas on the same basis as outpatient prescription drugs.

The bill applies to individual and group policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan. Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2015

BACKGROUND

Specialized Formula

Under state law, a "specialized formula" is a nutritional formula that is exempt from the federal Food and Drug Administration's general nutritional labeling requirements and intended for use solely under medical supervision in the dietary management of specific diseases.

Eosinophilic Gastrointestinal Disorders

EGIDs are a diverse group of intestinal diseases, including eosinophilic esophagitis, gastritis, gastroenteritis, enteritis, and colitis. Patients with EGIDs present with a variety of clinical problems, including failure to thrive, abdominal pain, vomiting, diarrhea, and dysphagia (difficulty swallowing). Treatment options include specialized formulas.

Related Federal Law

The federal Patient Protection and Affordable Care Act (P.L. 111-148) allows a state to require health plans sold through the state's health insurance exchange to offer benefits beyond those included in the required "essential health benefits," provided the state defrays the cost of those additional benefits. The requirement applies to benefit mandates enacted after December 31, 2011. Thus, the state is required to pay the insurance carrier or enrollee to defray the cost of any new benefits mandated after that date.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 19 Nay 0 (03/13/2014)